



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C., 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

*VIA CERTIFIED MAIL and EMAIL
RETURN RECEIPT REQUESTED*

June 22, 2017

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Thru:

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Re: Emissions Testing of FCA Vehicles for Model Years 2014 to 2016

Dear Grant and Bob:

Thank you for the April 3, 2017 letter from FCA's Mark Chernoby regarding EPA's March 28, 2017 Emissions Testing Plan for FCA Vehicles (Phase 1) ("Plan"). This letter responds to Mr. Chernoby's letter. In addition, as discussed further below, I am writing to propose an extension of the deadline for Phase 1 testing of the vehicles.

A. Response to Mr. Chernoby's Letter of April 3, 2017

In his letter, Mr. Chernoby organized his comments and questions into six categories. For ease of reference, we have copied these six categories and pasted them (in bold) into Attachment A to this letter. For each category, we have attempted to answer Mr. Chernoby's questions and provide other information that will further explain the Plan.

As you know, the purpose of the Plan, in part, is to determine the level of excess emissions of nitrogen oxides ("NOx") generated by model years 2014 to 2016 Jeep Grand Cherokees and Ram 1500s as the result of the undisclosed software that impairs the effectiveness of the emission control system of the vehicles. In order for such emission testing to be accurate and reliable, it is important that the emission control system in each test vehicle be the same as it was when the test vehicle left FCA's production facility, except for changes that were disclosed to EPA or the California Air Resources Board ("CARB") pursuant to a "running change" or "field fix" notification. To that end, in my email of December 7, 2016, I requested that FCA provide a certification, signed by a responsible corporate official, stating that (1) all emissions hardware, software, and calibrations in each test vehicle are either original to the vehicle or the result of a running change or field fix made by an authorized dealer; and (2) FCA made no modifications to the emissions hardware, software or calibrations in each vehicle after FCA procured the six test vehicles from private parties.

In his April 3, 2017 letter, Mr. Chernoby addressed the second certification requirement, but he did not address the first. Specifically, he disclosed that, after FCA acquired the vehicles from private parties, FCA replaced the SCR temperature sensor in the 2016 Grand Cherokee, as well as replaced the fuel drains and flanges in all six of the vehicles as requested by EPA. Other than these changes, Mr. Chernoby stated that – to the best of FCA's knowledge, information, and belief – the "emissions hardware, software, and calibrations of all the vehicles are as received" by FCA from the private owners.

This certification, however, leaves open the possibility that tampering could have resulted in alterations of the vehicles' emission control system after the vehicles left FCA's production facility. We understand that such changes, if they occurred, could have resulted from the actions of private owners, and we understand that FCA may be reluctant to certify that the vehicles are free changes resulting from such third-party tampering. However, we are confused by FCA's failure to provide a certification that the vehicles are free of unauthorized post-sale changes *made by FCA*.

To clarify this ambiguity, we request that you send to us a letter stating, with respect to each of the six test vehicles, whether FCA (as defined in the footnote below) made any changes to the hardware, software or calibration of the emission control system after the vehicle left FCA's production facility.¹ In the event that FCA made any such changes, it should describe each

¹ For the purpose of responding to this request, the term "FCA" shall mean the four defendants identified in the United States' complaint against FCA, as well as any person.

change and identify the date, if any, that the change was disclosed to EPA or CARB pursuant to a "running change" or "field fix" notification. Please provide us this letter by June 30, 2017.

B. Proposed Extension of Phase I testing

Under Paragraph 4 of the Stipulation Regarding Emission Testing of Vehicles Owned by FCA ("Stipulation"), which the parties amended on April 4, 2017, EPA shall complete its Phase I testing of vehicles no later than 90 days after the Delivery Date, unless the parties agree in writing to an extension of this time period. Given that the 90-day period will end on July 2, 2017, we would like to propose an extension of the Phase I testing to allow time for EPA to repeat several of the emission tests described in the Plan.

To that end, please find at Attachment B a proposed amendment to the Stipulation, extending the time period for Phase I testing by an additional 45 days. As you will see, the proposed amendment does not alter the 180-day time period for completing all emission testing. However, we are proposing some changes to Paragraph 6 to allow additional days for returning vehicles to FCA in the event that EPA should decide to pursue supplemental testing of the vehicles. To help you identify these proposed changes, please find attached a redline draft of the proposed amendment to the Stipulation at Attachment C.

Thank you again for your comments on the Plan. If the proposed amendment to the Stipulation is acceptable to FCA, we request that the parties execute the amendment this Friday, June 23, 2017.

Sincerely,



Kathryn Pirrotta Caballero
Senior Attorney
Vehicle and Engine Enforcement
Air Enforcement Division
EPA Office of Civil Enforcement

cc: Joe Warren, DOJ
Leigh Rende, DOJ
Caitlin Meisenbach, EPA

dealership, or other entity acting directly or indirectly for, or at the direction of, one or more of the four defendants.